MR. JOSEPH PANJIKARAN: I propose the name of Mr. G. Paramesvaran Pillai also.

MR. G. PARAMESVARAN PILLAI: I propose Messrs. Joseph Panjikaran and N. Padmanabha Pillai.

MR. V. SUBBA AIYAR: I have already put in 9 gentlemen.

DEPUTY PRESIDENT: May I know how many members we should have? I think you may add one or two more.

MR. V. SUBBA AIYAR: I have no objection. I omitted some names, because those who are already on the committee in regard to the Civil Procedure Code wished to be excused from being put in as members of the committees for other Bills. I shall include Messrs. N. Padmanabha Pillai and Joseph Panjikaran.

MR. S. PARAMESVARA AIYAR: I second the motion.

DEPUTY PRESIDENT: The question before the House is that the committee do consist of the eleven members just mentioned.

The motion was carried.

MR. V. SUBBA AIYAR: Yesterday one thing was omitted. The Chairman of the Select Committee as regards the Civil Procedure Code Bill was not nominated.

DEPUTY PRESIDENT: Both with reference to the Civil Procedure Code Amendment Bill and the Limitation Regulation Amendment Bill, I appoint Mr. V. Subba Aiyar as the Chairman of the Select Committees.

THE REFORMATORY SCHOOLS BILL.

MR. V. SUBBA AIYAR: Sir, I beg to move that the Reformatory Schools Bill be read in Council.

DEPUTY PRESIDENT: Has the Bill been published in the Gazette?

MR. V. SUBBA AIYAR: Yes, Sir.

DEPUTY PRESIDENT: Then I suppose you do not require the leave of the House to introduce the Bill.

MR. V. SUBBA AIYAR: No, Sir.

MR. S. PARAMESVARA AIYAR: I second the motion.

DEPUTY PRESIDENT: Let us now discuss the principle of the Bill.

MR. V. SUBBA AIYAR: Sir, I shall now explain the principle of the Bill. In the working of the existing Reformatories Regulation, two difficulties were pointed out by the District Magistrate, Trivandrum. They were these. In one instance, an inmate of the Reformatory was convicted and sentenced to imprisonment for an offence committed by him while in the Reformatory. Under the existing Criminal Procedure Code, courts are not competent to award concurrent sentences, so that the second sentence could take effect only after he was discharged from

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

the Reformatory. The District Magistrate therefore recommended that the sentence should be made to run concurrently. Of course, so long as the Criminal Procedure Code contained a contrary direction, it was not possible to do so. The British Indian Reformatories Act was amended after the passing of our Regulation and the amended Act contains a provision that sentences in the cases of the inmates of the Reformatory may be made to run concurrently. That provision was not incorporated here, so that it was not possible to permit the sentences to run concurrently. Ultimately the sentence was remitted. The very object of the Reformatory is to reform a boy and not to make him a confirmed criminal. It is with that object that the Reformatory is established. If he is asked to be in the Reformatory for 5 or 6 years and improve his character, he should not be there always with the Damocles' sword of imprisonment hanging over him after discharge. So long as he has that in view, he can never improve. It was therefore thought that it was absolutely necessary that in such cases the sentences should run concurrently.

Another difficulty pointed out was that, while in the case of persons confined in jails there are provisions enabling the court to summon them as witnesses, there are no such provisions in the Reformatories Regulation or the Rules thereunder and the Government have no power to provide for the same in the Rules. Therefore, it is not possible. In British India it is done in a separate Act—the Prisoners' Testimony Act—where the inmates of the Reformatory are included and the provision made. These are the two difficulties pointed out by the District Magistrate, Trivandrum.

The Regulation was, therefore, taken up for amendment. In so doing, it was thought that advantage might be taken to see that the Regulation is improved a bit, as it is many years old. It is with that view that the present Bill has been drafted. As I have said already, it is not the punishment of the youthful offenders, but it is the reforming of the young man or the improvement of his character, that is the main idea underlying the Regulation and that has been kept in view in preparing the draft Bill.

In the first place, we find that, even where a Magistrate fails to note whether a boy is a youthful offender or not, it is open to the Superintendent of the Prison or the officer in charge of the Prison to bring it to the notice of the District Magistrate who, if he is satisfied that he is a youthful offender, may direct him to be sent to the Reformatory.

The second amendment that has been made is that a youthful offender who is arrested should, under no circumstances, be kept in prison pending enquiry. As far as possible, he will be let on bail. In other words, bailing him should be the ordinary rule. If he is to be detained in custody, he should be detained separately and not along with other confirmed criminals, so that their company may not affect him.

LIBRARY ARCHIVES Kerala Legislative Assembly

The next amendment that has been made is that a youthful offender may, under no circumstances, be awarded death sentence or any sentence of rigorous imprisonment. The sentence should always be either simple imprisonment or fine.

The next amendment made is that a youthful offender need not, in the first instance, be sentenced or convicted. He may be discharged after admonition, or he may be delivered to his parent or guardian, if he undertake to see that the offender continues to be of good behaviour.

Everybody knows that ordinarily a conviction always disqualifies a man if the offence involves moral turpitude. In this particular instance it is not so. We are told that a previous conviction of a person shall not entail any disqualification incidental to such conviction. It is also open to the Superintendent of the Reformatory to issue licenses to youthful offenders permitting them to be under an officer of Government or a municipality or under a merchant or trader with a view to their pursuing a lawful occupation, and if any youthful offender is reported to be not doing well the license may be cancelled and he may be detained in the Reformatory.

The above are the main amendments that are made in the Bill, and, in making these amendments, I have followed as far as possible the Reformatory Act in British India and the Madras Children's Act of 1920. Such of the provisions as appear to be useful in the interests of youthful offenders have been incorporated, and I believe that the Bill will be acceptable to the House.

MR. L. C. HODGSON: I second the motion.

MR. M. R. MADHAVA VARIAR: Sir, I agree with the general principles of the Bill. This Bill has gone a great way to improve the condition of youthful offenders. The object of Reformatory Schools is to reclaim juvenile offenders and to improve them by means of study, work and discipline. But I must say that this principle is not consistently followed in all the clauses of the Bill.

To begin with, youthful offenders who have received sentences of imprisonment are only sent to Reformatory Schools. It has been found by investigation that young persons who are tried and punished by ordinary Magistrates feel the stigma of conviction and that the feeling of shame thus engendered in their minds cannot be easily removed. Though it is provided in the Bill that the conviction of a young person shall not be regarded as conviction for the purpose of any disqualification attaching to a conviction for an offence, he will be accused of bad character by the ordinary public, if he is sentenced to undergo a term of imprisonment by ordinary criminal courts. So it is desirable to have some provision in the Bill empowering the courts to try youthful offenders in a way different from the trial of ordinary offenders. In America there are children's courts distinct from adult courts so that the children appearing there may be viewed not as offenders but as wards of the State needing protection. It was considered necessary

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. R. Madhava Variar.]

in America and elsewhere to establish chancery courts because Magistrates in the ordinary criminal courts treat the offenders for what they should be, rather than for what they are. Under chancery courts in America the difficulty is overcome, where offenders are brought by summons instead of by warrants, where they are not charged with any crime but are informed of facts for and against them and the court takes action against them in the interest of the society and the offender. The object of not charging the offenders with any definite crime and of telling them that they will not be sent to prison is to reduce the likelihood of perjury and thereby to make easier the subsequent efforts of the Reformatory Superintendent or the probation officer. If some such procedure is not adopted by our criminal courts to deal with juvenile offenders, the influence of the Reformatory School will be nullified by the rankling shame in their minds occasioned by their trial in the ordinary way in criminal courts.

I am also of opinion that this Bill must provide for a system called the probation system. Probation is a system by which a reclaimable offender is conditionally released so as to afford him an opportunity to reform. Instead of being charged with crime or committed to Industrial or Reformatory Schools, not only because the course is unjust to them but because it is unjust to other offenders in those institutions, the offenders are conditionally released and placed under the friendly supervision of a skilled social worker known as a probation officer with the knowledge that the efforts of the said officer are likely to have good results in correcting defects both of character and surrounding. In the case of juvenile offenders efforts at reformation are chiefly directed to the offender and his parents. Though there are provisions in the Bill to empower courts to set juvenile offenders at liberty either after admonition or on the responsibility of their parents and guardians, and, the Superintendent of Reformatory to license them to employers of labour, the sponsor of the Bill has not referred to the probation system or fully grasped the principle thereof. If the probation system is to be adopted, the State can reclaim very many juvenile offenders without so much expense as the maintenance of Reformatory Schools will entail. A practice which has added largely to the value of probation is that of inviting voluntary helpers to co-operate with the salaried probation officer in the rehabilitation of offenders. The paid probation officer's work is made much more valuable when allied with the voluntary forces of the community than it ever could be without them. This system of combining salaried and voluntary workers conduces also to financial economy. If, under clause 28, youthful offenders are discharged after admonition or delivered to their parents or guardians with or without sureties, the responsible educational officers of each district or voluntary workers under the probation officer may be asked to submit periodical reports as to the conduct of the offenders and their environments in the family. I believe these suggestions will be adequately considered by the Select Committee.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. JOSEPH PANJIKARAN: In generally supporting the spirit of the Bill I would also request that the recommendations made by my friend, Mr. Madhava Variar, be paid particular attention to. We cannot be oversympathetic to our juvenile offenders. If all the juvenile offenders had been detected and punished, I think very few of His Highness the Maha Raja's subjects would have escaped conviction. I would also suggest an improvement in the existing state of things in the Reformatory. The juvenile offenders are now divided into three classes according to their merits or demerits. This is certainly a very good arrangement, because it prevents the contagion of the worst from spreading to those that are better. But the juvenile offenders that are newly received into the Reformatory are placed in the third class, *i. e.*, among the worst. This, I think, is objectionable. It is highly probable that some of these deserve a much better treatment than those constituting the third class. Again, this might tend to a lowering of the morals of those that are newly admitted. To avoid these evils, I would suggest that a 'trial class' be introduced into which the newly admitted are to be received. They are to be kept in this class for a short period and carefully watched. Then they should be put into one or other of the three classes according to their merits or demerits. Reformatories are not places for punishment, but for correction and improvement.

DEPUTY PRESIDENT: I suppose that nobody else has any observations to make on the Bill at this stage. The question before the House is that the Reformatory Schools Bill be read in Council.

The motion was carried, none voting against it.

DEPUTY PRESIDENT: The Secretary will now read the title of the Bill.

The Secretary read the title of the Bill.

MR. V. SUBBA AIYAR: I beg to move that the Bill be referred to a Select Committee to report within four months.

MR. K. GEORGE: I second the motion.

The motion was carried.

MR. V. SUBBA AIYAR: I propose the following members for the Select Committee, *viz.*, Messrs. (1) L. C. Hodgson; (2) K. Parameswaran Pillai; (3) K. C. Raja Raja Varma; (4) M. R. Madhava Variar; (5) S. Paramesvara Aiyar; and (6) V. Subba Aiyar.

I forgot to mention Mr. T. K. Velu Pillai's name.

MR. T. K. VELU PILLAI: I am already in another committee. I would recommend Mr. Pitt and Mr. Rangaswami Aiyangar.

MR. V. SUBBA AIYAR: I am rather afraid to put in official members, lest it should be said that I am going in for official members in the interests of Government. Therefore, I am omitting as far as possible official members.

MR. G. PARAMESVARAN PILLAI: There are particular interests in respect of which such a thing may not be desirable. But in the Reformatory Schools Bill such interests do not arise. I would make

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. K. Velu Pillai.]

the number of members nine. I propose three names *viz.*, Mr. Rangaswami Aiyangar, Mr. Pitt and Dr. Lakshmanan.

The Council accepted the suggestion to appoint the above nine members for the Select Committee.

DEPUTY PRESIDENT: I appoint Mr. Subba Aiyar as the Chairman of the committee.

THE MARKETS REGULATION AMENDMENT BILL.

MR. V. SUBBA AIYAR: Sir, I beg to move that the Markets Regulation Amendment Bill be read in Council.

MR. S. PARAMESVARA AIYAR: I second the motion.

MR. V. SUBBA AIYAR: Sir, the Regulation, as it stands, gives certain powers to the Dewan Peishkars, and appeals from their orders lie to the Dewan. It was only recently that the office of the Land Revenue Commissioner was created. It is with a view to provide for appeals from the decisions of the Dewan Peishkars to the Land Revenue Commissioner and to give relief to the Dewan that the present Bill has been drafted. It does not attempt at anything else. Ordinarily, appeals from the decisions of the Dewan Peishkars shall lie to the Land Revenue Commissioner. The Dewan, of course, has the power to revise the decisions in cases where he thinks it necessary to do so. I hope that the principle of the Bill will be accepted by the House.

MR. T. K. VELU PILLAI. Sir, when the Markets Bill was introduced in the Legislative Council some years ago, I protested against it, but as protests then were more ineffective than now, the Regulation was of course passed. I have been watching how the Regulation is being worked by the Government officers. I must confess that no advantage has been conferred either on the owners of the markets or others who congregate in markets on market days. Drinking water is not available and the markets are generally insanitary. One Sanitary Commissioner—I do not mention his name—has told me that these markets are a disgrace to civilisation. I am quoting his own words—the words of a high officer. Now regarding appeals, I must say that every facility should be allowed to the appellant to have his cases decided by the highest officer available. I have nothing to say against the present Land Revenue Commissioner or against any officer personally. He is a gentleman of ripe experience. But there is no guarantee that the Land Revenue and Income-tax Commissioner will always be a man of experience, particularly after I heard his argument that income-tax collection is such a technical business that real experts ought to be secured. Experience of land revenue affairs may then be a matter of only secondary importance. The result will be that parties will be put to considerable difficulty. An appeal from the decision of a Dewan Peishkar, when heard and decided by an officer of the tatus of Land Revenue Commissioner, who is after all only a kind of elder brother to the Dewan Peishkar, may not perhaps have a commensurate effect. But when the Dewan hears the appeal, people will repose

LIBRARY ARCHIVES Kerala Legislative Assembly